

LABOUR DEPARTMENT

The 4th July, 1968

No. 5837-3Lab-68/16767.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh, in respect of the dispute between the workmen and management of M/s Ego Metal Works Private Ltd., Gurgaon :—

BEFORE SHRI K. L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, CHANDIGARH

Application Nos. 3/1 to 3/13 of 1968 under Section 33-A of the Industrial Disputes Act, 1947.

ATTAR KHAN AND OTHERS

versus

M/S EGO METAL WORKS PRIVATE LTD., GURGAON

Present:—Shri C. B. Kaushik for the workmen.
Shri Ashok Kumar for the management.

AWARD

During the pendency of two references arising out of industrial disputes between the workmen and the management of M/s Ego Metal Works Private Ltd., Gurgaon, the management dismissed 13 of their workmen each of whom made an application to this Tribunal under Section 33-A of the Industrial Disputes Act, 1947 complaining that his dismissal was contrary to the provisions of Section 33 of the said Act and that the said dismissal was also wrongful, illegal and was an act of victimisation of the complainant. These applications were registered in this court as numbers 3/1 to 3/13 of 1968. The management also filed an application under Section 33(2) (b) which was registered in this court on 1st April, 1968 but which the management alleges to have despatched to this court on 16th March, 1968. During the pendency of the 13 applications under Section 33-A and the aforesaid application of the management under Section 33(2) (b) of the Act, the management withdrew orders of dismissal in the case of one of the workmen, namely, Badle Ram and an award was accordingly given in the application made by the aforesaid workman under Section 33-A. The rest of the 12 applications under Section 33-A one filed by each of the 12 workmen, namely, (1) Attar Khan, (2) Kallu Ram, (3) Jagan Nath, (4) Amar Nath, (5) Nirmal Singh, (6) Sarca Nand, (7) Lal Chanl, (8) Krishan Behari, (9) Murari Lal, (10) Mani Ram, (11) Ram Pat and (12) Kanta Parshad will all be disposed of by this award because in all the 12 cases the facts are identical and the questions of law are also identical.

It may be mentioned here that the application of the management under Section 33(2)(b) was dismissed by me on 24th May, 1968 on the findings (1) that the domestic enquiry on which the management relied for the dismissal orders of the workmen in question was vitiated *inter-alia* because of the fact that rules of natural justice were not complied with at the said enquiry, (2) that the management had failed to comply with the provisions of Section 33(2)(b) of the Industrial Disputes Act, 1947 in as much as their application to this Tribunal under Section 33(2)(b) was not made as a part of the transaction of dismissal and moreover the management had not paid wages to the workmen simultaneously with the passing of the orders of dismissal so as to make the payment of wages a part of the transaction of dismissal. The management had alleged in that case that they had sent application to the Tribunal on the 16th of March, 1968 although the same had been received in this office on 1st April, 1968. Even assuming that the application under Section 33(2) was despatched on the 16th of March it could not be deemed to be a part of the transaction of dismissal which was actually made on the 11th of March, 1968. The payment of wages was not made to the workmen on time and wages were sent to the workmen by money orders sometimes in April, 1968, i. e. about a month after the order of dismissal, and (3) that the dismissal of the 12 workmen in question was mala fide and was an act of their victimisation for their trade union activities and for their having made applications in the Labour Court against the management.

In the present applications under Section 33-A, the management have chosen not to lead any evidence either in support of the domestic enquiry held by them or even on merits of the charges levelled against the 12 workmen. On the date of evidence in these applications one Mr. Ashok Kumar appeared as a representative of the management and made a statement before me which reads as under :

"Management have no evidence to produce in the 12 applications under Section 33-A of the Industrial Disputes Act."

The workmen led some evidence and after the close of their evidence I again asked Mr. Ashok Kumar if the management wished to produce any evidence in rebuttal and he stated as follows :—

"I have not to produce any evidence in rebuttal also in any of the 12 cases."

Evidently it was for the management to justify the dismissal of the 12 applicants who have filed their 12 petitions under Section 33-A of the Industrial Disputes Act and they have failed to do so. With regard to the domestic enquiry held by the management against the 12 applicants I have already recorded my findings in my order dismissing the management's application under Section 33(2)(b) and there is nothing on the present record to show that the said order in any way requires any reconsideration. In these applications the workmen have examined Shri Yoginder Mohan foreman and shift incharge of the concern in question and his evidence has been recorded as A.W. 1. He has stated that he was shift incharge upto 31st March, 1968 and all the 12 persons who are now applicants before me were working under him. He has also stated that he never made any report about the slow down of work with regard to any of them. He has further stated that they never gave production less than what was fixed for them. Shri C. B. Kaushik General Secretary of the trade union of which the 12 workmen in question are members has appeared as a witness as A- W. 3. He has stated that all the 12 applicants in the present cases were active members of his trade union. He has further stated that the management caused another union to be formed in the factory in September 1967 and that it was of the opinion that if these 13 workmen in question were dismissed the present trade union of which he (C.B. Kaushik) was the General Secretary would automatically come to an end. He has also stated that with this motive the management tried to harass the workmen firstly by removing fans from their departments and then by removing the helpers provided to the 12 workmen in question. He has further stated that the management with the same object in view made the working conditions of the departments worse for these 12 workmen and later charged the workmen for giving less production. He has stated that various complaints against the present management were made to the Labour Department by his trade union and also by the 12 workmen in question. In support of this fact he has produced letters A-13 to A-25. The management sent some letter of warning to the 12 workmen in question but did not supply the copy of the same to the workmen vide A-27 and A-28. 12 workmen in question made applications to the Labour Court, Rohtak, against the management and notices of these applications were issued to the management on the 19th of October, 1967. The case of the workmen is that the said notices were served on the management before the 25th of October, 1967 and enraged by the various acts of the workmen specially by the last act of their making applications in the Labour Court, Rohtak, the management chose to serve all the 12 workmen with orders of suspension on the 25th of October, 1967. It is rather curious that although the workmen were suspended w.e.f. 25th October, 1967 no charge-sheet was issued to any of them till about the middle of December, 1967. The chargesheets served on them in the middle of December are dated 10th December, 1967. The case of the workmen is that the management took all this time to consider what charges they should levy against the workmen and after good deal of consideration they made up their mind to levy charges of slow down which were actually false. As I have stated above the management has led no evidence to prove the charges levelled by them against the workmen nor have they produced any evidence to show that the domestic enquiry held by them was in any way proper. The workmen have on the other hand produced the foreman and the shift incharge as a witness to prove that there was no slow down at all. I have no reason to disbelieve the said witness, namely A.W. 1, whose evidence clearly shows that the charges of slow down levelled against the workmen in question were not correct. I have also no reason to disbelieve the evidence of Mr. C. B. Kaushik which fully proves that the entire action of the management in charge-sheeting and ultimately dismissing the 12 workmen in question was an attempt to harass the said workmen and was a clear act of victimization of them. I have no doubt that the management wanted to crush the

trade union of which these 12 workmen were members and that later they got enraged when these workmen filed applications against the management in the Labour Court, Rohtak. One of the notices issued by the Labour Court, Rohtak is on the record and is dated 19th October, 1967. This notice was served by registered post on the management and presumably the management received it before the 25th October, 1967. Mr. C. B. Kaushik has made an affirmative statement that the notices of the aforesaid applications were received by the management before the 25th October, 1967 and the management suspended all the 12 workmen because they got enraged by the act of workmen filing applications in the Labour Court.

For the reasons stated above, I find that the dismissal of the 12 applicants in the present 12 cases was not justified and the charges levelled against them were false. I also find that their dismissal had been made as an act of their victimization and with a view to crush their trade union activities. In the result, I accept all the 12 applications and direct the management to reinstate all the 12 workmen with continuity of and without any break in their services as if they had never been dismissed and had always remained in service. I further direct the management to pay them full back wages from the date each of them was dismissed to the date each of them is reinstated. The management will reinstate them and pay the aforesaid wages within 45 days from the publication of this award in the official gazette.

No order as to costs.

K. L. GOSAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

Dated 28th June, 1968.

No. 785, dated Chandigarh, the 28th June, 1968.

The award be submitted to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required by section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

R. I. N. AHOOJA, Secy.

REVENUE DEPARTMENT

The 5th July, 1968

No. 3143-EI-68 2043.—The Governor of Haryana is pleased to appoint Shri Amar Nath Singal as Superintendent, Commissioners' Office, Ambala, in the scale of Rs. 350—25—500/30—650, in a substantive permanent capacity, with effect from 3rd September, 1967, against the vacancy released by Shri Kalyan Singh Jain.

SUKHDEV PRASAD, Dy. Secy.

WAR JAGIR

The 3rd July, 1968

of Shri Devita Ram, of village Jamni, tehsil and district Jind, subject to such conditions as to its enjoyment as are contained in the Sanad of the Jagir granted to him.

No. 3281-R(III)-68 2572.—In exercise of the powers conferred by sections 2(a) (ia) and 3(IA) of the East Punjab War Awards Act, 1948, the Governor of Haryana is pleased to make a grant of war jagir of the annual value of Rs. 100 (Rupees one hundred only) in favour of Shri Siri Niwas, son of — This grant will take effect from Kharif, 1965.

KIRAN PREM, Dy. Secy.